

**Testimony of Brian Mannix,
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U.S. Environmental Protection Agency,
before the
Subcommittee on Regulatory Affairs,
U.S. House of Representatives**

September 28, 2005

I. Introduction

Members of the Subcommittee, I appreciate the opportunity to appear before you today to discuss the Environmental Protection Agency's (EPA) regulatory reform efforts included in the Office of Management and Budget's (OMB) 2005 report entitled Regulatory Reform of the United States Manufacturing Sector. I believe that the subcommittee will be pleased to hear about the significant progress the Agency is making in meeting our commitments.

The President appreciates the key role played by the manufacturing sector in sustaining the health of our national economy. I understand how important, yet often overlooked, the sector is to the country. To that end, EPA is actively pursuing a variety of reforms to our regulations that were suggested in the OMB report. These reforms will help accelerate the pace of environmental protection in a manner that is less burdensome to manufacturers. EPA has made commitments covering a wide range of issues, many of which will reduce the burden of monitoring and reporting requirements while still protecting human health and the environment. In fact, these changes will allow environmental compliance officers at manufacturing facilities to focus on higher priority environmental issues.

II. Manufacturing Sector Report

Each year OMB submits a report to Congress that estimates the total annual costs, benefits, and impacts of federal rules and paperwork. To initiate this process, OMB publishes a draft report each spring and solicits public comments on the content of the report and on any regulatory actions or guidance documents the public believes should be nominated for reform. This year, OMB focused the report on regulatory reforms of most interest to the manufacturing sector.

In February of 2004, OMB requested public nominations of specific regulations, guidance documents, and paperwork requirements that, if carefully modified, could result in lower costs, increased effectiveness, enhanced competitiveness, and increased flexibility. One hundred and eighty nine responses were submitted to OMB from 41 different commenters. Most of these pertained to regulation promulgated by EPA and the Department of Labor. In December 2004, OMB referred ninety proposed reforms to EPA for our review and consideration. EPA evaluated the merits of each of the reform nominations and, in January, 2005, submitted its reform recommendations to OMB. Forty two EPA reforms were included in OMB's final report.

When selecting these reforms, EPA applied the same criteria that it applied to its environmental policy over the past four years:

- Is the rule based on sound science?
- Is the implementation of the rule the most effective way to manage for environmental results?
- Could the same (or better) environmental outcome be achieved through a cooperative partnership rather than command and control regulation?

Two recent actions illustrate how these principles were applied. EPA streamlined its General Pretreatment Regulations that establish requirements for local publicly owned treatment works (POTWs) to target resources where they will produce the greatest environmental benefit. EPA regulations generally require local manufacturers to “pretreat” their discharges before they reach the POTW for further treatment. In administering these standards, POTWs impose requirements to ensure that the manufacturers will not damage the treatment systems of the POTWs or cause the POTW to violate its National Pollutant Discharge and Elimination System permit. EPA’s regulations also govern the specific steps POTWs must take in overseeing the dischargers whose effluents they treat. The change we recently promulgated gives POTWs greater flexibility to conduct this oversight, but preserves EPA’s backstop authority to ensure that the pretreatment program continues to protect both the POTW and the environment. The result will be less paperwork for POTWs and manufacturing sources since local regulators can now eliminate burdensome paperwork requirements without running afoul of EPA rules. Providing POTWs greater flexibility to target oversight resources where they will do the most good produces a more effective POTW-EPA partnership that manages for environmental results.

The reforms underway related to the Toxics Release Inventory (TRI) Program also demonstrate the Agency’s application of our principles such as using sound science. Many people have expressed concern that TRI reporting is unnecessarily burdensome and that the usefulness of the resulting data is inconsistent with its costs. EPA is moving forward to reduce TRI burden with a proposed rule that would allow thousands of TRI reporters to use a much simpler “Form A” in lieu of the more complex “Form R”. This proposal would provide burden relief to about one third of all TRI reporting facilities while continuing to ensure that communities are provided with the same high level of information about facilities’ chemical handling activities. The Agency has also notified Congress that it intends

to initiate a rulemaking within 12 to 24 months to modify required reporting frequency from annual to biennial reporting. This would not only reduce burden, but also enable EPA and states to use the saved resources from the non-reporting years to improve the TRI data base and conduct additional analyses that would enhance the value of the data to the public.

The same evaluation criteria used for these two rules is being consistently applied to the wide array of Agency actions. One example stands out: in May of last year the Administration announced one of the most dramatic advancements in clean air protection since passage of the Clean Air Act Amendments of 1990. EPA's Clean Air Nonroad Diesel Rule requires stringent pollution controls on diesel engines used in industries such as construction, agriculture and mining, and it will slash sulfur content of diesel fuel. The rule will be a major help to areas nationwide in their effort to reach clean air goals and improve public health. This rule is the latest in a series of Clean Diesel actions based on sound science designed to reduce emissions from nearly every type of diesel vehicle and equipment. This nonroad diesel program combines cleaner engine technologies with cleaner fuel -- similar to the on-highway diesel program -- with an end result of dramatic environmental and public health benefits.

III. Agency Process to Respond to Regulatory Reform Nominations

While 42 reforms were ultimately selected for action by the Agency, EPA carefully examined each and every reform suggested by the public. The list of nominations referred to EPA was sent to each of our program offices to review and provide a response, including information on what the final product, goal or objective would be along with any associated milestones. While the Agency was guided by the principles I mentioned above, there were some cases where the Agency had already taken the action recommended by the commenter or had work already underway to address their concern. In more than one instance, the Agency

contacted the commenter directly to clarify the nature and intent of the nomination.

Once the program offices completed their review, their recommendations, accompanied by a detailed rationale, were forwarded to the Office of Policy, Economics and Innovation, the Agency's lead Office responsible for coordinating responses and ensuring that the Agency meets its commitments.

After evaluating the merits of each of the reform nominations, EPA submitted its reform recommendations to OMB, meeting the January 24, 2005. During this time, the Agency commenced work to address the 42 comments. Throughout this process, EPA sometimes provides feedback on specific proposals, as well as periodic updates to OMB on the Agency's progress toward meeting action milestones. To continually monitor our progress in meeting milestones, OPEI developed and maintains a database to track the Agency's progress. Our review of the nominations has helped to either confirm the Agency's initial approach or recognize the need for revision or clarification. Also, it highlights opportunities for us to accelerate the pace of environmental protection through cooperative partnership and stewardship.

IV. Progress on Specific Regulatory Reform Nominations: Completed Actions

Thanks to this reform initiative, we have already made significant progress in the effort to reduce unnecessary burdens while accelerating the pace of environmental protection. For example, in response to comment No. 52: Reporting and Paperwork Burden in the Toxics Release Inventory (TRI) Program, the Agency proposed to reduced the burden on the reporting community by allowing use of simpler reporting forms and notified Congress that it intends to initiate a rulemaking within 12 to 24 months to reduce the frequency of reporting.

Several other actions that have already been completed are worthy of highlighting:

OMB Tracking Number	Reform Title	Action Taken
47, 117	Issuance of the Final Pretreatment Streamlining Rule Under the Clean Water Act; Categorical Wastewater Sampling and Testing	The Agency finalized a rule that will promote conservation and innovation, provide greater flexibility to Publicly Owned Treatment Works (POTWs), reduced overall administrative burden to industries, state regulatory agencies and POTWs.
101	Sulfur and Nitrogen Monitoring at Stationary Gas-Fired Turbines	The Agency promulgated a rule that provides more flexibility to turbine owners by removing unnecessary requirements and revising monitoring, record keeping and reporting requirements.
44	Maximum Achievable Control Technology (MACT) Standards for Chromium Emissions	The Agency finalized chromium electroplating amendments that promote innovation by providing more flexibility for new sources of chromium emissions from metal finishing operations, more flexibility in the legal treatment of technical violations, and more compliance flexibility in the use of alternative technologies.
35	Enforcement and Compliance History Online (ECHO) Website	The Agency improved the data quality of an important source of publicly available data.
61	Annual Reporting of Pesticide Information	The Agency streamlined reporting forms and modified the website to clarify and simplify the process for annually reporting pesticides.

V. Progress on Specific Regulatory Reform Nominations: 2005 Outlook

While the EPA has already achieved a number of important milestones in meeting our commitments under the Manufacturing Initiative, I would also like to highlight for the Subcommittee important reform actions we are finalizing and expect to complete by the end of this year. In December, we plan to issue a proposed rule to promote additional recycling in the electroplating industry. Currently, metal precipitate sludge is considered a listed hazardous waste. This determination discourages reuse, recycling and reclamation of these wastes. This rule would exempt recycled electroplating sludge containing a high percentage of recoverable metals from hazardous waste management requirements, thereby reducing the costs of recycling. The proposed rule is one example of the Agency managing for results; the result being increased recycling of valuable metals and reduced reliance on virgin materials and the environmental impact associated with processing these materials.

By the end of the year, the Agency currently plans to issue new guidance and propose a rulemaking concerning the Spill Prevention, Control, and Countermeasure (SPCC) rule (OMB tracking numbers 54-58). The guidance document will provide clarification and compliance assistance to facilities subject to SPCC. The rule will propose compliance flexibility for facilities that store small amounts of petroleum, while continuing to prevent potential discharges to navigable waters of the United States or adjoining shorelines.

I refer the Subcommittee to the Manufacturing Initiatives Report for additional actions that we have underway.

VII. Conclusion

Under this Administration, EPA has taken significant steps towards improving the quality and credibility of our regulations and guidance documents using sound science as a foundation. The reforms we have outlined in the Manufacturing Initiative are an important part of that improvement process. We are committed to implementing and completing the reforms outlined in OMB's Manufacturing Initiative. All of these initiatives are being tracked in the Agency's regulatory tracking system, which keeps the Administrator informed of both progress and upcoming milestones. This process affords us the opportunity to evaluate and act on reforms that promote stewardship and innovation and produce environmental results. I expect the Agency will be totally successful in responding to the 2005 Manufacturing Sector Reform Initiative.

Thank you for the opportunity to testify today. I would be happy to answer any questions that you may have.